IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WA.No. 1040 of 2007()

AGAINST THE JUDGEMENT IN WPC.23178/2005 Dated 25/01/2007
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APPELLANT: 2ND RESPONDENT

KERALA STATE HOUSING BOARD, REP. BY ITS SECRETARY,
PATTOM, THIRUVANANTHAPURAM.

BY ADV. SRI.A.JAYASANKAR, SC KSHB, TVM

RESPONDENTS: PETITIONER & RESPONDENTS 1 AND 3
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1. MEENAKSHI , W/O. LATE SAHAJANANDAN,
MANNATHANPARAMBU, MARARIKULAM NORTH PANCHAYATH,
KANICHUKULANGARA P.O., CHERTHALA.

2. MARARIKULAM NORTH GRAMA PANCHAYATH, REP. BY ITS
SECRETARY, S.L.PURAM P.O., MARARIKULAM, ALAPPUZHA.

3. DISTRICT PANCHAYATH, ALAPPUZHA.

R1 BY ADV. SRI SANAL KUMAR

R2 & 3 BY ADV. SRI MANUVILSON

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

H.L.Dattu, C.J. & K.T.Sankaran,J.

W.A. No.1040 of 2007

Dated, this the 31st day of May, 2007

JUDGMENT

H.L.Dattu,C.J.

This appeal is filed by the Kerala State Housing Board (the Board, for short) being aggrieved by the orders passed by the learned Single Judge in W.P.(C) No.23178/2005 dt. 25.1.2007. By the said order the learned Judge has directed the Housing Board to release the entire payments to the petitioner stage wise under a scheme known as 'Mythri Bhavanam Scheme'.

2. It is the case of the petitioner before the court that the Housing Boarding had flouted a scheme known as 'Mythri Bhavanam Scheme'. Under the said scheme the petitioner was entitled to get a sum of Rs.28000/- for the purpose of construction of a residential house.

3. The petitioner had deposited a sum of Rs.6600/- with the Mararikulam North Grama Panahcyat on 17.12.1999. The Grama Panchayat thereafter had deposited the aforesaid amount with the matching contribution by them with the Housing Board.

4. Since the Grama Panchayat or the Housing Board had not released the amount as promised under the Scheme, for the first time the petitioner has approached this court in the year 2005. Though it was brought to the notice of the court that the petition requires to be rejected on the ground of delay and latches and further on the ground that the said scheme has been withdrawn by the State Government some time in the year 2001, the learned Single Judge has thought it fit to direct the Housing Board to release a

sum of Rs.28000/- stage by stage. It is the correctness or otherwise of the said order which is the subject matter of this writ appeal.

5. The learned counsel appearing for the Board would submit that since the scheme itself has been withdrawn in the year 2001, the question of paying any amount to the contesting respondent/petitioner would not arise. In support of the contention the learned counsel has produced documentary evidence to suggest the withdrawal of the scheme by the State Government.

6. Having gone through the pleadings and the assertions made by the learned counsel for the parties at the time of hearing, we are of the opinion that the learned Single Judge was not justified in entertaining the writ petition on the ground that though the petitioner had deposited certain amounts in the year 1999, she did not care to approach this court for appropriate reliefs within a reasonable time. There was enormous delay in approaching this court. The delay was fatal to the proceedings. That aspect of the matter should have been taken note of by the learned Single Judge before granting the relief to the petitioner. Apart from this, since the scheme itself has been withdrawn, there is no obligation on the Board to pay a sum of Rs.28000/- to the petitioner. Even this aspect of the matter has been lost sight of by the learned Single Judge. In that view of the matter we cannot sustain the orders passed by the learned Single Judge. Accordingly the following:

Order

The appeal is allowed. The order passed by the learned Single Judge in W.P.(c) No.23178/2005 dt. 25.1.12007 is set aside.

A direction is issued to the Housing Board to refund a sum of Rs.6600/-

deposited by the petitioner with the Mararikulam North Grama Panahcyat and which, in turn, had been deposited to the Housing Board, with interest at 9% from the date of deposit till the date of payment. A cheque/DD for the aforesaid amount may be handed over by the learned counsel for the Board to the learned counsel appearing for the petitioner within two weeks from today. Ordered accordingly.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

mt/DK.